

# EXHIBIT N

**In the Matter Of:**

*In Re: Pork Antitrust Litigation*

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*DUNCAN BIRCH*

*March 03, 2022*

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA

IN RE:

PORK ANTITRUST LITIGATION

)  
)  
)  
) Case No.  
) 0:18-cv-01776-  
) JRT-HB  
)

VIDEOCONFERENCE DEPOSITION OF DUNCAN BIRCH

Remote via Zoom

Thursday, March 3, 2022

Reported by:

RACHEL F. GARD, CSR, RPR, CRR

JOB NO. 2022-832737

March 3, 2022

9:58 a.m. Eastern

Videotaped deposition of DUNCAN BIRCH,  
remote via Zoom, pursuant to notice before  
Rachel F. Gard, Certified Shorthand Reporter,  
Registered Professional Reporter, Certified  
Realtime Reporter.

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BY: JAROD G. TAYLOR, ESQ.

ALSO PRESENT:

CAYLOB SUAREZ, Videographer/Exhibit technician

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1 THE VIDEOGRAPHER: We're on the  
2 record on March 3rd, 2022, at 9:58 a.m.  
3 Eastern time for the remote deposition of  
4 Mr. Duncan Birch in the matter of In Re:  
5 Pork Antitrust Litigation.

6 My name is Caylob Suarez, and I am  
7 the videographer and document technician on  
8 behalf of Lexitas.

9 Will counsel please introduce  
10 themselves and the party they represent,  
11 beginning with the party noticing this  
12 proceeding.

13 MR. TAYLOR: Jarod Taylor, Axinn  
14 Veltrop & Harkrider, for the Tyson  
15 defendants questioning for all defendants.

16 MR. MALMSTROM: Good morning. Carl  
17 Malmstrom, M A L M S T R O M, from Wolf  
18 Haldstein Adler Freeman & Herz, LLC, on  
19 behalf of Mr. Birch.

20 MR. RISSMAN: Good morning. Josh  
21 Rissman, Gustafson Gluek, co-lead counsel  
22 for the consumer indirect purchaser  
23 plaintiffs.

24 THE VIDEOGRAPHER: Thank you. Will  
25 the court reporter please swear in the



1 witness.

2 (Witness sworn.)

3 WHEREUPON:

4 DUNCAN BIRCH,  
5 called as a witness herein, having been first  
6 duly sworn, was examined and testified as  
7 follows:

8 EXAMINATION

9 BY MR. TAYLOR:

10 Q. Good morning, Mr. Birch. As I said  
11 a moment ago, my name is Jarod Taylor, and I  
12 represent Tyson Foods and two of its  
13 subsidiaries you've sued in this case.

14 A. Right.

15 Q. Would you please state your name for  
16 the record.

17 A. Duncan Birch.

18 Q. Have you ever gone by any other  
19 names or nicknames?

20 A. Negative.

21 Q. Do you understand that you're  
22 testifying under oath today?

23 A. Yes.

24 Q. You've sworn to tell the truth just  
25 like you would if you were in a courtroom

1 starting in June 2018, right?

2 A. Yes, sir.

3 Q. And you did not purchase any pork  
4 products in Maine prior to June 2018; is that  
5 correct?

6 A. I have purchased pork products in  
7 Maine.

8 Q. Before June 2018?

9 A. Yeah. We've been up here a lot  
10 visiting her family.

11 Q. What year was the first time you  
12 ever visited Maine?

13 A. I want to say 2013.

14 Q. When you visited family prior to  
15 moving to Maine, how long was the longest trip  
16 you ever took to Maine?

17 A. I want to say a week, maybe 10 days  
18 with the weekends thrown in.

19 Q. And from 2013 to '18, how many times  
20 would you -- do you remember that you took a  
21 one-week to 10-day trip to Maine?

22 A. It was mainly around the holidays  
23 and, I mean, I would say the majority of  
24 the years. This was a popular  
25 Thanksgiving/Christmas destination for us

1 since we could just drive up.

2 Q. And between 2013 to '18, were those  
3 yearly roughly week-long trips your only travel  
4 to Maine?

5 A. No. We would do other trips as  
6 well.

7 Q. Shorter trips?

8 A. Weekender, something, yes. And then  
9 house hunting.

10 Q. Did you go grocery shopping during  
11 your trips to Maine from 2013 to '18?

12 A. Yes.

13 Q. Does that mean you personally spent  
14 money on groceries during your trips from 2013  
15 to 2018?

16 A. I can't recall. I know as we had  
17 come up more when we were house hunting, I  
18 would contribute more to our expenses incurred  
19 by her parents.

20 Q. When did you start house hunting?

21 A. 2017.

22 Q. You cannot testify under oath that  
23 you spent your own money on pork products in  
24 Maine before June 2018, can you?

25 MR. MALMSTROM: Object to the form

1 of the question.

2 A. I don't have any direct evidence,  
3 but I don't have that information to share.

4 Q. That means you don't remember  
5 purchasing pork products with your own money in  
6 Maine before 2018, correct?

7 A. Prior to June, I don't have the  
8 documentation to it. I know my wife's  
9 grandfather is a big fan of bacon, so I  
10 probably acquired some bacon for him. But I  
11 don't have that evidence to provide to you.

12 Q. Okay. So for this, for these  
13 questions, I want to put aside for a moment  
14 documentary evidence. That's not what I'm  
15 asking about. I'm asking for your testimony  
16 based on your memory.

17 Do you remember for a fact under  
18 oath that you purchased bacon or other pork  
19 products with your own money before June 2018?

20 MR. MALMSTROM: Object to the form  
21 of the question. Asked and answered.

22 A. I'll say no.

23 Q. So now I want to talk about from  
24 June 2018 to present. Do you understand that?

25 A. Yes, sir.

1 Q. Have you purchased pork products in  
2 Maine from June 2018 to present?

3 A. Yes, sir.

4 Q. What types?

5 A. Various, well, parts, ribs, loins,  
6 chops, sausage, ham, smoked meats, sausage,  
7 yes. Breakfast patties, sliced ham.

8 Q. And when you say you purchased those  
9 products, that means you personally with your  
10 money, correct?

11 A. Yes, sir.

12 Q. So your spouse, for example, you're  
13 not including purchases by her in that  
14 description?

15 A. These are directly purchased by me  
16 with money in our joint account.

17 Q. Can you estimate approximately how  
18 much you spent on pork products during that  
19 period?

20 MR. MALMSTROM: Object to the form  
21 of the question. Vague.

22 A. I'd say several hundred dollars'  
23 worth.

24 Q. What are all the types of locations  
25 in which you purchased pork products in Maine